



*(This meeting was recorded)*  
February 12, 2003

## **FIRE AND POLICE RETIREMENT BOARD**

The Fire and Police Retirement Board held a regular meeting in Meeting Room A, 2nd Floor, City Hall, 2600 Fresno Street, Fresno, California, at the hour of 2:00 p.m. on the day above written.

### **Roll Call 2:45 p.m.**

Present:	Brian Burry	Chair
	Darrell Fifield	Vice Chair
	Carla Lombardi	Member
	Stephen Guinn	Member
	Paul Cliby	Member

APPROVE MINUTES OF THE **FIRE AND POLICE RETIREMENT BOARD** FOR DECEMBER 12, 2002, REGULAR JOINT MEETING, DECEMBER 27, 2002, SPECIAL JOINT MEETING AND JANUARY 8, 2003 REGULAR JOINT MEETING

ON MOTION of Member Cliby seconded by Member Guinn, duly carried, **RESOLVED**, to approve the minutes of the Fire and Police Retirement Board for December 12, 2002, Regular Joint Meeting, December 27, 2002, Special Joint meeting and January 8, 2003, Regular Joint Meeting, hereby approved by the following vote,

Ayes:	Burry, Fifield, Lombardi, Guinn, Cliby
Noes:	None
Absent:	None
Abstain:	None

- - - -

APPROVE AGENDA OF FEBRUARY 12, 2003

ON MOTION of Member Cliby seconded by Member Fifield, duly carried, **RESOLVED**, to approve the agenda of February 12, 2003, hereby approved by the following vote,

Ayes:	Burry, Fifield, Lombardi, Guinn, Cliby
Noes:	None
Absent:	None
Abstain:	None

- - - -

### **TIMED SCHEDULED AND HEARINGS AND MATTERS**

2:49 p.m.

REVIEW, DISCUSSION AND CONSIDERATION OF A FEE PROPOSAL FROM THE BOARD'S ACTUARY FOR A SPECIAL ACTUARIAL STUDY REQUESTED BY LABOR AND THE CITY.

Stanley McDivitt, Retirement Administrator briefly summarizes the actuarial reports as presented, stating that Andy Yeung is available for phone communication, reminded the Board that this is the second proposal that the City and the Labor groups have condensed this down to two scenarios, and the actuary has provided a fee proposal in the amount \$39,000 or \$19,000 for Proposal One only, \$28,000 for Proposal Two only.

Brief discussion follows with Administrator McDivitt responding questions from Member Cliby regarding responses from the labor groups, with Chair Burry recommending issue be laid over, direct staff to distribute proposal to the labor groups and request a validation of their request in writing.

- - - -

2:51 p.m.  
FORMAL HEARING TO CONSIDER  
APPLICATION FOR VOLUNTARY SERVICE-  
CONNECTED DISABILITY RETIREMENT  
FILED BY MICAH HOWZE, FIREFIGHTER  
RECRUIT. *(SUBMITTED AS EVIDENCE AT  
THE HEARING.)*

A court reporter is present.

Chair Burry requests from legal counsel if the Board should offer a closed hearing. Legal Counsel concurs that when a disability application involves underlying issues it could be considered stigmatizing and in those circumstances the policies in the Brown Act and the Open Meeting Act have to give way to constitutional right of privacy protections and it is in his opinion this case does not involve those type of issues and therefore, must remain a public hearing.

Upon call, Board Counsel Richeda confirms that no one is present to formally represent the City of Fresno. An unidentified member of the audience states he is present on behalf of the Fire Department. Board Counsel Richeda confirms with the audience member that he has not been subpoenaed, and that he may wish to come up and enter an appearance if he is planning to represent the department with respect to this application, if he is here as an observer he does not have to enter his appearance, if he wishes to offer argument, evidence or cross examine any parties, he must enter an appearance.

Member Lombardi states that Chief Medina is present as a representative of Chief Aranez who is out of town and Captain Van Aman are both here as subpoenaed parties.

Legal Counsel states that it appears that the City of Fresno will not be entering an appearance with respect to this application.

Micah Howze is present and states he has evidence that he would like to enter at this time. At the request of Chair Burry, legal counsel clarifies format of the hearing, confirms that Dr. Batchelor, the examining Orthopedist recommended by Dr. Chase, the independent medical examiner, is present and suggests that the Board hear from Dr. Batchelor and review the written reports by Dr. Chase and Dr. Batchelor and decide if there is a need to pursue the evidence gathering phase of the hearing or if persuaded by the information as presented, the Board could decide to approve the application, but if the majority of the Board does not feel they are in a position to approve the application based on those elements of evidence, then the Board could proceed to hear all of the relevant evidence that the parties wish to submit and explains that this format will preserve Mr. Howze's right within the parameters of due process and present a full case to the Board.

Mr. Howze expresses concern referring to Section 1732A of the Municipal Code, briefly quotes the stated Code section and expresses concern that Captain Patricia Van Aman is allowed to

serve on the Board, and based on evidence presented today, he has no interest in sitting across from this person under this section and having the capability of doing harm to him yet again.

Upon request from Chair Burry, Board Counsel Richeda briefly addresses Mr. Howze's concerns.

Mr. Howze explains he would like to enter evidence for the record and discussion follows with Board Counsel Richeda and Chair Burry responding to Mr. Howze's request.

Administrator McDivitt summarizes the administrative evidence and reports as submitted and Legal Counsel confirms that each Board member and Mr. Howze receive a copy of the administrative evidence as submitted and directs the Board to December 2, 2002, two- page report from Dr. Chase and multi-page report from Dr. Batchelor dated November 20, 2002.

Chair Burry calls Dr. John W. Batchelor, M.D. who is sworn-in by the court reporter. Legal Counsel Richeda briefly reviews the disability issues to Dr. Batchelor.

Dr. John W. Batchelor expresses concern regarding evidence as submitted and brief discussion follows with Legal Counsel Richeda, Chair Burry and Mr. Howze responding. Dr. Batchelor continues with a summary of his medical report and conclusions.

Legal Counsel Richeda briefly comments to summarize the issues before the Board. Discussion follows with comments from Chair Burry and clarification from Administrator McDivitt and Dr. Batchelor continues with his evaluation and report.

Mr. Howze responded to questions from Member Lombardi regarding the delay in filing a disability retirement application, discussion follows with brief comments from Chair Burry.

Dr. Batchelor responded to questions from Mr. Howze who referred to pages 11 and 12 of Dr. Batchelor's report. Mr. Howze distributes to Dr. Batchelor, a report from his treating physician, Dr. Nelson. As directed by Mr. Howze, Dr. Batchelor reads the highlighted portion of the report. Chair Burry follows to summarize the issues. Mr. Howze then continues with questions to Dr. Batchelor. Extensive discussion follows with comments and clarification from Chair Burry, Member Lombardi and Board Counsel Richeda.

ON MOTION of Member Fifield seconded by Member Cliby, duly carried, RESOLVED, to approve the application for voluntary service-connected disability retirement filed by Micah Howze, hereby approved by the following vote,

Ayes:	Burry, Fifield, Guinn, Cliby
Noes:	None
Absent:	None
Abstain:	Lombardi

Mr. Howze submits two binders as evidence.

- - - -

## **CONSENT CALENDAR**

CONFIRM DATE AND TIME FOR NEXT  
REGULAR MEETING OF THE FIRE AND  
POLICE RETIREMENT BOARD  
SCHEDULED FOR 2:30 P.M., MARCH 12,  
2003, FRESNO CITY HALL, 2600 FRESNO  
STREET, MEETING RM 2165-A.

Confirmed. Member Guinn confirms that he will be on vacation March 10-21, 2003 and  
will not be at the next regularly scheduled Board meeting.

ACCEPT MONTHLY TRUST FUND REPORT  
FOR OCTOBER, NOVEMBER AND  
DECEMBER 2002

- - - -

ACCEPT MONTHLY BUDGET REPORT FOR  
OCTOBER, NOVEMBER AND DECEMBER 2002

- - - -

Consider application for involuntary service-  
connected disability retirement filed by the  
City of Fresno on behalf of Stanley Barron,  
Police Officer.

- - - -

Consider application for involuntary service-  
connected disability retirement filed by the  
City on behalf of Dan A. Craft, Firefighter  
Specialist.

- - - -

Consider application for voluntary service-  
connected disability retirement filed by  
Dennis Schroeder, Firefighter Specialist.

- - - -

Approve application for service retirement  
filed by Maximino Callas, employee in the Fire  
Department, effective January 16, 2003.

- - - -

Approve application for service retirement  
filed by Vincent R. Zavala, Jr., a vested  
employee, effective March 3, 2003.

- - - -

Approve application for continuance of  
retirement allowance filed by Catherine  
Ploharz, surviving spouse of David F. Ploharz,  
who passed away on December 2, 2002.

- - - -

Approve application for continuance of retirement allowance filed by Dorothy Watson, surviving spouse of Floyd E. Watson, who passed away on December 26, 2002.

- - - -

APPROVE APPLICATION FOR DEFERRED RETIREMENT OPTION PROGRAM (DROP) FOR THE FOLLOWING INDIVIDUALS AS OF MARCH 1, 2003:

<u>Fire</u>	<u>Police</u>
None	Roger Hann
	Wayne Hawkins
	Raymond Holquinn
	Robert Quinn

- - - -

ACCEPT REPORT OF RETIREMENT REFUNDS:

<u>Employee</u>	<u>Separation Date</u>	<u>Amount</u>
Matthew Saldana	11/24/02	\$ 1,632.34
Casey J. Barber	12/12/02	\$ 2,865.42

- - - -

CHANGE OF BENEFICIARY

<u>Fire</u>	<u>Police</u>
None	Michael T. Carrillo
	Richard Desmond
	Thomas A. Godwin
	Bradley Benson Haga
	Arthur T. Kiehn
	Thomas E. Scheppepegrell
	Gregory L. Taylor

- - - -

Consider Board Member attendance to the following conference:

International Foundation of Employee Benefit Conference (IFEBC)  
Certificate of Achievement in Public Plan Policy (CAPP)  
in Employee Pensions - Part 1 and 2  
March 18-21, 2003  
New Orleans, Louisiana  
Board Member: Paul Cliby

Member Fifield expressed concern regarding this conference and brief discussion ensued with Member Cliby responding stating that he will attend no more than three (3) conferences in FY 04 to accommodate his attendance to a fifth conference in FY 03.

- - - -

FIRE AND POLICE RETIREMENT BOARD

ON MOTION of Member Cliby seconded by Member Guinn, duly carried, RESOLVED, to approve the Fire and Police System consent items, hereby approved by the following vote,

Ayes: Burry, Fifield, Lombardi, Guinn, Cliby  
Noes: None  
Absent: None  
Abstain: None

- - - -

## **EMPLOYEE PERSONNEL ISSUES**

**CLOSED SESSION** - CONFERENCE WITH  
LEGAL COUNSEL - EXISTING LITIGATION:  
PURSUANT TO GOVERNMENT CODE SECTION  
54956.9(A):

- A. CASE NAME: FRESNO POLICE  
OFFICERS= ASSOCIATION, ET AL. V.  
CITY OF FRESNO RETIREMENT BOARD  
AND THE CITY OF FRESNO; FRESNO  
SUPERIOR CASE NO. 654687-3  
(GOVERNMENT CODE SECTION 54954.5  
(C))

No action is reported out of closed session.

- - - -

## **STAFF INITIATED ITEMS**

None.

- - - -

## **BOARD INITIATED ITEMS**

None.

- - - -

## **GENERAL DISCUSSION**

REPORT FROM RETIREMENT  
ADMINISTRATOR ON RETIREMENT  
PROJECTS AND COMMITTEE ACTION  
AGENDAS

Administrator McDivitt gave an overview of the progress of the ongoing projects .

- - - -

## **INFORMATION ONLY ITEMS**

CERTIFICATE ISSUES TO CHAIR BRIAN  
BURRY FOR SUCCESSFUL COMPLETION OF  
THE INTERNATIONAL FOUNDATION OF  
EMPLOYEE BENEFIT PLAN'S TRUSTEES  
MASTERS PROGRAM

Received.

- - - -

## **UNSCHEDULED ORAL COMMUNICATIONS**

None.

- - - -

## **PROPOSED AGENDA ITEMS FOR NEXT BOARD MEETING**

None.

- - - -

## **PUBLIC COMMENTS**

None.

- - - -

## **ADJOURNMENT - 3:35 pm**

There being no further business to bring before the Board, and hearing no objections, Chair Burry declared the Fire and Police Retirement Board's regular meeting adjourned.

DATED: February 14, 2003

---

Brian Burry, Chair  
Fire and Police Retirement Board

---

Pattie Laygo  
Secretary to the Retirement Board